if I were to write the book afresh." A second edition was published in 1885, edited by J. C. Graham. From Michaelmas, 1852, to Trinity, 1858, in the eight volumes of Ellis & Blackburn, and the one volume of Ellis, Blackburn, & Ellis, Blackburn was one of the reporters to the Queen's Bench.

In speaking of his appointment to the bench in 1859, Foss says of him, in his Biographical Dictionary, with a tempered approbation which sounds oddly now: "Though with no considerable business as a counsel, he was esteemed a sound lawyer, and after twenty years' experience at the bar he was appointed a judge of the Queen's Bench in June, 1859, and received the customary knighthood."

He had never "taken silk," and it was a strange departure from precedent to appoint a man to be a judge who had not been Queen's Counsel; it created a great stir. It was Lord Campbell who did this. Campbell had become Chancellor on June 18, 1859, and as early as July 3 we find in his diary the following entry: "I have already got into great disgrace by disposing of my judicial patronage on the principle of *detur digniori*. Having occasion for a new judge to succeed Erle, made Chief Justice of the Common Pleas, I appointed Blackburn, the fittest man in Westminster Hall, although wearing a stuff gown; whereas several Whig Queen's Counsel M. P.s were considering which of them would be the man, not dreaming that they could all be passed over. They got me well abused in the Times and other newspapers, but Lyndhurst has defended me gallantly in the House of Lords."

Campbell, a Scotchman himself, and Chief Justice of the Queen's Bench from 1850 to 1859, had had Blackburn for his reporter for six of these years, and he knew his man. The wisdom of the appointment was soon abundantly shown. Blackburn's judicial opinions rank among the very best of his time. His later promotion, in 1876, to be one of the Lords of Appeal in Ordinary, was handsomely earned; and when he retired, about eight years ago, he had not his peer upon the English bench. Strong men remain there, but one hardly knows yet where to turn for that combination of sound thinking, exact and instructive discrimination, and large, rational, and just exposition by which the law of all English-speaking countries has profited for these many years.

A RECORD OF THE COMMEMORATIVE EXERCISES OF LAST JUNE. — The Harvard Law School Association has just published, in pamphlet form, an account of the exercises of June 25 last. These exercises, it will be remembered, marked the ninth annual meeting of the Association, and, more particularly, the twenty-fifth anniversary of Professor Langdell's appointment as Dean of the School. The notable gathering on that occasion was in his especial honor. The well known portrait of Professor Langdell, painted by F. P. Vinton, Esq., and reproduced in the HARVARD LAW REVIEW for March, 1893, is here excellently reproduced as the frontispiece of the pamphlet. Then follow, in full, Sir Frederick Pollock's oration, delivered in Sanders Theatre, and the after-dinner addresses of the invited guests given in the Hemenway Gymnasium. The oration is too widely known to need further comment; but it may not be amiss to direct particular attention to the addresses of President Eliot and Professor Langdell, for they contain much of interest concerning the vicissitudes, the bold experiments, and finally the material and intellectual

success which have characterized the Law School within the last twenty-five years. As an example of graceful and felicitous introduction, the closing paragraph of Hon. J. C. Carter's address, introducing Professor Langdell, has been rarely surpassed.

THE ROMAN AND THE COMMON LAW. — The address delivered by Judge William Wirt Howe, of New Orleans, before the American Bar Association last summer has recently been reprinted in pamphlet form. He outlines in a very attractive manner the several ways in which the Roman law has exercised an influence on our law, wisely saying little about Roman Britain and much about Anglo-Norman ecclesiastics. Students of Germanic legal history will perhaps find him too generous to Rome when he comes to an enumeration of some institutions and doctrines of ours which show civilian influence. The use of the fine, for instance, in conveying land, can scarcely be connected with the *in jure cessio* of the older Roman lawyers. The *in jure cessio* was a collusive suit which ended with a recovery by judgment, and not with a "fine," or compromise (*concordia finalis*). Furthermore, the Roman device did not preclude the claims of third parties. On the other hand, the use of collusive suits to convey land was known to the courts of the Frankish Empire, and the *gerichtliche Auflassung* which developed from the Frankish practice was the most important, possibly the sole, mode of conveying land in Germany during the later Middle Ages. The procedure is substantially that of the English fine, and the one whom the court puts in possession is protected after a year and a day by the court's ban. There would seem to be no reason to look beyond the Germanic systems of law for the origin of the fine. (See Pollock and Maitland, *Hist. of Eng. Law*, vol. ii., pp. 94, 95.) The same may be said of many another English practice or rule of law. The accident of resemblance, and in some cases the partially Romanized terminology of our law, have more than once led writers to give undue credit to Rome.

REPORT OF COMMISSIONERS OF CODE REVISION IN NEW YORK. — On the 11th of December, the Commissioners appointed by Governor Morton last June to study codes of procedure in operation outside of New York, and submit propositions as to the best means of revising, condensing, and simplifying the present New York Code, reported to the Legislature the result of their six months' work. Six months has proved too short to allow a full performance of the duties imposed upon the Commission. Accordingly the Commissioners make no attempt to suggest in detail the features of the new code: nor have they found it practicable in the limited time to make a comparative study of the various State and foreign procedure codes. Such an examination of other codes and specific propositions for a revised New York Code are to be reported a year hence.

The first part of the present report deals with civil procedure in ancient countries, including in its range systems of procedure as widely separated, geographically at least, as those of ancient Ireland, Greece, Persia, and Hindustan. The second part contains a list of modern states and countries, with an enumeration in case of each, of the codes, statutes, and other sources of information regarding the procedure in